

III. Draft of Guidance for Product Stewardship Plan Approval (Paint)

Note: this is a discussion outline providing guidance on criteria for plan approval. The final proposed regulations will include other sections on: submittals, payments to the department, records retention, confidentiality, enforcement, and other topics. These will eventually be in one document.

I. Definitions

II. Stewardship Plan Submittal Instructions

III. Criteria for Stewardship Plan Approval

Department staff shall use the criteria below to review stewardship plan contents and determine if they meet the requirements in statute. This section first describes the requirements (stated or inferred) in AB 1343 Architectural Paint Recovery Program, followed by a description of how the department shall evaluate the requirements.

1. **Contact information.** Identify the manufacturer or designated stewardship organization responsible for the plan submittal.

How this criterion will be evaluated:

The department shall verify that the manufacturer or its designated stewardship organization has registered on-line with the department.

2. **Scope.** The program described in the plan is designed to accept and manage all applicable postconsumer architectural paint products.

How this criterion will be evaluated:

- a. The plan clearly identifies the covered products, manufacturers, and associated brands, and provides for supplying the department with updated lists every six months.
 - b. The plan submitted follows the standard outline (see *Section II: Stewardship Submittal Instructions*).
3. **Program Goals and Activities.** Include program goals and a description of how the goals will be achieved to:
 - a. Reduce the generation of postconsumer paint;
 - b. Promote the reuse of postconsumer paint; and
 - c. Properly manage postconsumer paint at end-of-life, including recovery and recycling of postconsumer paint.

How this criterion will be evaluated:

The department shall check for clearly stated goals. There must be evidence that goals are specific to and appropriate for California, recognizing the current recycling infrastructure and capacity, estimating changes in market conditions, and anticipating recycling infrastructure and capacity in California. Discussion on goals must include a

baseline, to be provided by the manufacturer or stewardship organization, from which the goals will be measured and reported in the manufacturer or stewardship organization's annual reports. A methodology for estimating the amount of leftover paint available for collection in California must be provided by the manufacturer or stewardship organization.

4. **Solid Waste Management Hierarchy.** Describe proposed measures that will enable the management of postconsumer paint in a manner consistent with the state's solid waste management hierarchy:
 - a. Source reduction
 - b. Recycling
 - c. Environmentally safe transformation and safe land disposal

How this criterion will be evaluated:

The department staff shall review plans for descriptions of how PRC §48702(a) will be addressed: "A manufacturer of architectural paint sold in this state shall, individually or through a stewardship organization, submit an architectural paint stewardship plan to the department to develop and implement a recovery program to reduce the generation of postconsumer architectural paint, and manage the end-of-life of postconsumer architectural paint, in an environmentally sound fashion, including collection, transportation, processing, and disposal."

This may include efforts to educate consumers on the correct amount of paint to purchase, increase postconsumer content in new architectural paint, recycling and reuse efforts, etc.

5. **Collection Systems.** Describe the system that will be used to collect and properly manage postconsumer paint. This description must include the following:
 - a. Type of collection site used for each type of architectural paint.
 - b. Destination for reuse activities, processing (including recycling) and/or disposal by product type.
 - c. Description of best management practices to be followed by the service providers, including any training that the manufacturer or stewardship organization intends to provide to or require of service providers to ensure proper collection and management of postconsumer architectural paint.
 - d. Description of how each consumer that pays an architectural paint stewardship assessment will have an opportunity to properly recycle their postconsumer paint.

How this criterion will be evaluated:

The department shall consider the extent to which every consumer that is paying the assessment will have an opportunity to participate in the program. This may include:

- a. Ensuring that collection opportunities are available in every county.
- b. Ensuring that collection opportunities are available within a certain distance (radius) of population centers.
- c. Ensuring that all consumers have at least one type of collection opportunity available annually.

6. **Market Development.** Describe incentives or methods to increase recycling of architectural paint into secondary materials, as applicable.

How this criterion will be evaluated:

The department shall review this section for informational purposes only.

7. **Financing Mechanism.** Include a funding mechanism that provides sufficient funding to recover, but not exceed, the cost of the architectural paint stewardship program, including the administrative, operational, and capital costs of the plan. The funding mechanism includes the following:
 - a. The amount of the assessment per unit of paint sold in the state.
 - b. A budget for the program that includes revenue estimates from the assessment, full program costs, and administrative costs (*include reference to regulations on service payment to the department*).
 - c. A requirement that any surplus funds will be put back into the program to reduce the costs of the program, including the assessment amount.

How this criterion will be evaluated:

The plan and its supporting documents shall provide sufficient information for the department to make a determination that:

- a. The amount of the assessment is sufficient to meet, but not exceed, the anticipated cost of carrying out the plan.
 - b. Any surplus funds were used to reduce program costs.
 - c. The allocation of the funds support the solid waste management hierarchy and program goals identified in the plan.
 - d. Stewardship organization administrative costs follow established standards of good governance.
8. **Education and Outreach.** Include a description of education and outreach efforts to consumers, contractors, and retailers to promote source reduction and recycling of architectural paint. The description shall include how the outreach and education methods will be used and distributed, and how effectiveness of these activities will be measured.

How this criterion will be evaluated:

This information may include, but is not limited to, one or more of the following:

- a. Signage that is prominently displayed and easily visible to the consumer.
 - b. Written materials and templates of materials for reproduction by retailers to be provided to the consumer at the time of purchase or delivery, or both. Written materials shall include information on the prohibition of improper disposal of architectural paint.
 - c. Advertising or other promotional materials, or both, that includes references to architectural paint recycling opportunities.
9. **Program Performance Measurement.** The plan shall include goals established by the manufacturer or stewardship organization to reduce the generation of postconsumer paint,

to promote the reuse of postconsumer paint, and for the proper end-of-life management of postconsumer paint, as practical, based on current household hazardous waste program information. The goals may be revised by the manufacturer or stewardship organization based on the information collected for the annual report.

- a. Describe how attainment of the goals outlined in Section 3 (“Program Goals and Activities”) will be measured.

Table X: Overview of Potential Data Collection	
<p>This table has some elements that are not required in AB 1343, but may assist in the overall evaluation of the program over the long term. The table should be refined to indicate what data shall be collected and by whom. Currently, items listed may be collected or tracked by multiple entities.</p> <p>Note: Throughout table units to report in need to be identified.</p>	
Population (insert year)	
Financing	
Total program cost (\$)	
Cost(\$)/capita	
Cost (\$)/gallon collected	
Education/Outreach (% of total program cost, with line items for reuse, recycling, fuel incineration, and landfilling)	
End-of-life materials management (% of total program cost)	
Program administration (% of total program cost)	
Governance (program oversight) (% of total program cost)	
Environmental	
Materials management	
Product sold (gallons)	
Product collected (gallons)	
Product sold that is available for collection (describe methodology used)	
Amount and percent collected (from available for collection)	
Amount and percent reused	
Amount and percent recycled	
Amount and percent for fuel incineration	
Amount and percent landfilled	
GHG emissions (tons)	
\$ invested in product design/R&D	
Program effectiveness	
Progress against goals	
Regulatory non-compliances	
Demonstrated improvements in product design	
Public awareness	

Public participation ¹
Jobs attributable to stewardship program (Direct/Indirect²)
Local Government
Product Stewards
State Government
Materials extraction, processing, & manufacturing
Collectors & Recyclers
Retailers

How this criterion will be evaluated:

- a. Provide specific information on the measurement methodology and data sources.
- b. Program data shall be collected for purposes of annual report submittal. Data shall be California specific.

10. **Stakeholder Consultations.** A manufacturer or stewardship organization that submits a plan shall include a process of consultation with existing local household hazardous waste collection programs and other affected stakeholders, and consider the existing infrastructure in the development of the plan.

How this criterion will be evaluated:

The department shall review the stewardship plan to ensure that this consultation occurred in a manner that captured statewide representation of local household hazardous waste collection programs.

11. **Audits.**

- a. **Financial Information.** Include a process by which the financial activities of the organization or individual manufacturer that are related to implementation of the plan will be subject to an independent financial audit, which will be submitted in the manufacturer or stewardship organization's annual report and reviewed by the department. Submitting independently audited financial statements demonstrate the producer's commitment to financial transparency and accountability on how all funds collected from consumers are managed.

How this criterion will be evaluated:

The department shall verify that independently audited financial statements are submitted with the annual report. The department may investigate further.

¹ Via survey results or other reported data, such as Form 303
<http://www.calrecycle.ca.gov/HomeHazWaste/Reporting/>

² "Direct" refers to number of jobs directly attributable to the manufacturer or stewardship organization employees working on the program. "Indirect" refers to # of jobs estimated attributable to contracted service providers. May be expressed in units of full-time equivalents (FTEs).

- b. **Non-Financial Information (optional).** Include a process by which the following non-financial activities of the organization or individual manufacturer that are related to implementation of the plan will be subject to an independent non-financial audit, which will be submitted in the manufacturer or stewardship organization's annual report and reviewed by the department:
 - i. A description of how the postconsumer architectural paint was managed in accordance with the stewardship plan.
 - ii. The total amount of architectural paint sold and collected, and, if applicable, the recovery rate.

How this criterion will be evaluated:

The department shall review for informational purposes only.

12. Dispute Resolution (optional). While not specified in AB 1343, the department encourages producers to establish a procedure for addressing complaints or concerns on the part of consumers and stakeholders.

How this criterion will be evaluated:

- a. The department shall review this section for informational purposes only.

IV. Criteria for Evaluating Annual Reports

V. Enforcement

VI. Record Retention

VII. Proprietary, Confidential, or Trade Secret Information

VIII. Service Payments to The Department